

DIST/OFFICE	DOCKET YR.	NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	23	S	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	DOCKET YR.	NUMBER
1085/4	75	0204	05 23 75	3	440	1	1- 1,2,4			426	8510	P	75	0204-C

## PLAINTIFFS

Jewel McCowan &amp; Evelyn McCowan

## DEFENDANTS

The Atcheson, Topeka and Santa Fe Railroad Company, Roger W. Shenk, Leonard Ames, Patrick J. Ballard, and William J. Jarvis, and Joe Brennan.

*Continued Bottom of page*

## CAUSE

42 USCA 1983 and 28 USCA Section 1343(3). A Law and Equity cause to redress a deprivation under color of statute, ordinance, regulation, custom or usage of a right, privilege, and immunity secured by the United States Constitution such deprivation arising under color of law and statutes of the State of Oklahoma.

## ATTORNEYS

~~Carl B. Jones~~  
~~Ungerman, Grabel & Ungerman~~  
~~6th Floor, Wright Building~~  
~~Tulsa, Oklahoma 74103~~  
~~918-584-6101~~

Allen M. Smallwood  
1717 S. Cheyenne  
Tulsa 74119  
585-9837

*Brennan*  
Donald L. Cooper (AT&SF & Shenk)  
735 First Natl. Center West  
Okla. City, Okla. 73102

Thomas R. Brett  
Jones, Given, Brett, Gotcher & Doyle  
~~1700 Fourth National Bank Bldg.~~  
Tulsa, Oklahoma ~~74119~~ 74103  
Suite 400, 200 West 5th Street  
583-1115

*Def. Cont*

~~THE ATCHESON, TOPEKA AND SANTA FE RAILROAD COMPANY, a corporation;~~  
~~JOE BRENNAN, individually and as~~  
~~Division Special Agent for the~~  
~~ATCHESON, TOPEKA AND SANTA FE~~  
~~RAILROAD, Eastern Division,~~  
~~Emporia, Kansas; ROGER W. SHENK,~~  
~~individually and as Special Agent~~  
~~for the ATCHESON, TOPEKA AND~~  
~~SANTA FE RAILROAD, Eastern Division,~~  
~~Emporia, Kansas; LEONARD AMES,~~  
~~individually and as Detective of~~  
~~the Bartlesville, Oklahoma Police~~  
~~Department; PATRICK J. BALLARD,~~  
~~individually and as Detective of~~  
~~the Bartlesville, Oklahoma Police~~  
~~Department; and WILLARD J. JARVIS,~~  
~~individually and as Chief of Police~~  
~~of the Bartlesville, Oklahoma~~  
~~Police Department,~~

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## STATISTICAL CARDS

BER

CARD DATE MAILED

JS-5 6-1-75

JS-6 12-1-76

DATE	NR.	PROCEEDINGS
5-23-75	1.	Complaint filed, summons issued. mm
6-12-75	2.	Stipulation of parties for ext. of time to ans., filed. rm
6-16-75	3.	Order, filed, granting Defts. Atchison, Topeka and Santa Fe RR Co. and Roger W. Sherk, until 7-7-75 to ans. complaint. (HDC-J)v -copies mld.
6-18-75	4.	Application for additional Time to File Answer, filed. mm
6-18-75	5.	Order Granting an Extension of Time to July 2, 1975, filed. mm (JCS)
7-2-75		mm Summons, ret. & filed: served AT&SF by serving Agt. Gordon F. Rainey, O.C., served Roger W. Schenk by serving Robt. Schumaker, Div. Agt., both on 5-27-75; served Leonard Ames, Patrick J. Ballard and Willard J. Jarvis at Bartlesville, Ok. on 5-28-75; served Joe Brennan, Ft. Madison, Iowa on 6-26-75. (USM \$88.92)g
7-2-75	6.	Sep. Ans. of Defts Leonard Ames, Patrick J. Ballard, and Willard J. Jarvis, filed. lm
7-8-75	7.	Motion of defts. AT&SF Ry., Joe Brennan and Roger W. Schenk to dismiss, filed. g
7-8-75	8.	Brief in support of defts' mot. to dismiss, filed. g
7-8-75	MO	Pltfs. directed to file responsive brief to mot. to dismiss within 10 days. (HDC-J)g
7-17-75	9.	Appl. of pltf. for ext. of time to file responsive brief, filed. rm
7-17-75	10.	Order, filed, granting pltf. to 7/28/75 to file responsive brief to def. mo/dismiss.(HDC-J)rm-copies mailed
7-28-75	11	Pltf's response to defts' mot. to dismiss, filed.k
8-21-75	12	Order, filed, that Deft's Mtn. to Dismiss is hereby overruled to be re-presented at pre-trial. (HDC-J)jj copies mailed
8-28-75	13	Interrogatories to pltf. Evelyn McCown by deft. AT&SF, filed. g
8-28-75	14	Interrogatories to pltf. Jewel McCowan by deft. AT&SF, filed. g
9-2-75	15	Answers of Joe Brennan, Roger W. Schenk & AT&SF, filed. g
9-2-75	16	Second set of Interrogs. directed to pltf Jewel McCowan by AT&SF, filed.g
9-10-75	17.	Appl. of pltf. for ext. of time to ans. interrogatories of 8/28/75 and 9/2/75, filed. rm
9-12-75	18.	Order, filed, granting Pltfs. until 10-12-75 to ans. interrogs. of Deft. Atchison, Topeka, & Santa Fe RR. (HDC-J)v -copies mld.
9-29-75	19.	Appl. of Carl Jones, and Paul Weinstein, for leave to withdraw as attorneys of record, filed. rm
9-30-75	20.	Entry of appearance by Allen M. Smallwood as counsel for pltf., filed.rm
9-30-75	21.	Order, filed, granting Carl B. Jones, Paul R. Weinstein and Ungerman, Grabel & Ungerman leave to withdraw as attys. for pltf. (HDC-J)g mld
10-10-75	22.	Plaintiff's Answers to Defendants' First & Second Set of Interrogatories, filed.mm
10-15-75	MO:	Case set for PT hearing 1-6-76 at 1:45 p.m. (HDC-J)hm
10-23	23.	Pltfs' Ans. to Defts' 1st and 2nd Set of Interrogatories, filed.jj

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. _____
Jewel McCowan, et al		The Atchison, Topeka & Santa Fe et al	PAGE <u>3</u> OF <u>2</u> sheets PAGES
DATE	NR.	PROCEEDINGS	
10-28	24	Motion of deft AT&SF for order compelling pltfs to ans. interrpgs. or in alternative, to dismiss, filed. g	
10-28	25	Brief in support of AT&SF mot., filed. g	
10-29	MO	Ordered by the Court that pltf. file a responsive brief within 10 days to AT&SF mot. for order compelling pltfs to ans. interrgs. or in alternative, to dismiss. (HDC-J)g	
11-6	26.	Pltfs.' responsive brief to Deft.'s mot. for order compelling pltfs. to ans. interrog., or in the alternative to dismiss, filed.k	
11-17	MO:	Ordered by the Court that the motion of deft. AT&SF for order compelling pltfs. to ans. interrgs. or in altern. to dismiss is referred to Mag. Bradford for hearing and recommendation. (HDC-J)hm	
11-19	MO:	Case set for hearing on deft's mo/order comp. pltfs. to ans. interrog. or in altern. to dismiss on 12-2-75 at 1:30 p.m. before Mag. Bradford. (MLB-Mag)hm	
12-2	MO:	Hearing held before Mag. Bradford on deft's mo/order comp. pltfs. to a ans. interrog. or in altern. to dismiss. Statements made. Deft's mo. for order comp. pltfs. to ans. interrog. sustained & pltf. counsel to prepare F&R within 5 days. (MLB-Mag)hm	
12-4	27.	Findings and recommendations of magistrate, filed. (MLB-Mag)hm (copies mailed)	
12-8	28.	Pltfs' amended answers to defts' first and second set of interrgs., filed. ph	
12-11	29.	Pltfs, Jewel & Evelyn/, Demand for Jury Trial, filed. tc	
12-18	30.	Order, filed, approving recommendation of Magistrate; deft. ATSF' mot. for order compelling pltfs to answer interrgs, sustained; answers to be filed by 12-10-75; mot. of deft. as it related to interrog 7F is overruled. (HDC-J)g cpies mld.	
1-6-76	MO:	Pre-trial hearing held. Statements made. Pre-trial conference memorandum, filed in open court. Court states that mo/dismiss of defts. AT&SF, Brennan & Schenk is further overruled. Parties announce discovery to be complete within 30 days. Defts. given until 2-13-76 to file motion for S/J; pltf. until 2-27-76 to respond. If parties wish oral arguments on motions, they are to advise Court. Case to be set for jury trial at later date. (HDC-J)hm	
1-6	31.	Pre-trial conference memorandum, filed in open court. hm	
2-6	32.	Mot. for ext. of time to file mot. for Summary Judgment, fld. by Defts. Atchison, etc., RR, Joe Brennan & Roger Shenk. v	
2-10	33	Order, filed, granting defts. AT&SF, Brennan and Schenk until 2-25-76 to file mots. for S/J. (HDC-J)g cp mld.	
2-12		Depositions of J.C. Brennan and Roger W. Shenk on behalf of Pltfs. taken on 1-6-76 in Tulsa, OK, before Kathy Noulles, CSR, w/fees of \$133.50, filed. v	

(Over)

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>75-C-204</u>
Jewel McCowan & Evelyn McCowan		The Atcheson, Topeka & Santa Fe Railroad Co. et al	PAGE <u>4</u> OF <u>2</u> PAGES
DATE	NR.	PROCEEDINGS	
<u>1976</u>			
2-12	34.	Mo. of defts, Leonard Ames, Patrick J. Ballard and Willard J. Jarvis for ext. of time in which to file mo. for S/J, filed. ph	
2-12	35.	Order, filed, granting defts. Leonard Ames, Patrick J. Ballard & Willard J. Jarvis until 3-4-76 within which to file Motions for S/J. (HDC-J)ph cps mld	
2-20-76		Dep. of Leonard Ames, on behalf of pltfs. taken before Kathy Noulles, C.S.R. on 12-29-75. Fee of \$93.00 pd. by pltfs.jj filed	
2-20		Dep. of Patrick Ballard on behalf of pltfs taken before Kathy Noulles, C.S.R. 12-29-75. Fee of \$42.00 pd. by pltfs.jj filed	
2-20		Dep. of W.J. Jarvis on behalf of pltfs. taken before Kathy Noulles C.S.R. on 12-29-75. Fee of \$39.00 pd. by pltfs.jj filed	
2-23	36	Mot. of defts. AT&SF, Brennan and Schenk for addl. time to file mots. for S/J, filed. g	
2-23	37	Order, filed, granting defts. AT&SF, Brennan and Schenk until 3-4-76 to file motions for summary judgment. (HDC-J)g cp mld.	
3-4-76	38,	Mtn. to Dismiss or in the Alternative Mtn. for S/J filed by defts. Ames, Ballard and Jarvis.jj	
3-4	39.	Brief in Support of Defts' Ames, Ballard and Jarvis, Mtn. to Dismiss and in the Alternative, Mtn. for S/J, filed.jj	
3-4	MO:	It is Ordered by the Court that pltfs. are granted 10 days to respond to pltfs' Mtn. to Dismiss or in the Alternative Mtn. for S/J. (HDC-J)jj ltrs. mld.	
3-4	40.	Affidavit of Ralph Davis, filed.jj	
3-4	41.	Affidavit of Sandra Thomas, filed.jj	
3-4	42.	Affidavit of Hazel S. Burris, filed.jj	
3-4	43.	Affidavit of Sara Charlene Inda, filed.jj	
3-4	44.	Affidavit of John G. Lanning, filed.jj	
3-4	45.	Affidavit of Willard Boone, filed.jj	
3-8	46.	Defts. Atchison, Topeka & Santa Fe's appl. for time til 3-12-76 to file mots. for S/J, filed.k o to j	
3-9	47.	Pltfs' mo. for ext. of time in which to file responsive briefs to defts' motions for S/J, filed. ph <i>okg</i>	
3-10	48.	Order, filed, granting defts., The Atchison, Topeka & Santa Fe Railway Company, Joe Brennan and Roger W. Schenk, until 3-12-76 to file Motions for S/J. (HDC-J)ph cps mld	
3-10	49	Order, filed, granting pltfs. until 3-26-76 to file responsive briefs to mots. for S/J, filed. (HDC-J)g cp mld.	
3-12	50.	Motion of defts. AT&SF, Brennan & Schenk to dismiss, or in altern. motion for S/J, filed. hm	
3-12	51.	Brief of AT&SF, Brennan & Schenk in support of above motion, filed.hm	
3-12	MO:	Pltfs. directed to file resp. brief within 10 days to above motion. (HDC-J)hm	
3-24	52.	Amended mot. to dismiss or in the alternative mot. for S/J, filed by defts. Ames, Ballard & Jarvis w/ adoption of brief previously filed 3-4-76.k	
3-24	MO	It is ordered by the Court that the Plaintiff is granted 10 days to respond to above motion. (HDC-J)k cps mld	

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF Jewel McCowan, et al.	DEFENDANT The Atchison, Topeka & Santa Fee Railroad Company, et al.	DOCKET NO. 75-C-204-C Sheet 3, Page 5 <del>PAGE xxx OF xxxxx PAGES</del>
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DATE, 76	NR.	PROCEEDINGS
3-25	53.	Pltf.'s brief in response to both defts., Atchison, Topeka, etc., & deft.'s Leonard Ames, Patrick J. Ballard and Willard J. Jarvis, individually & as members of the Bartlesville Police Dept. mots. for S/J or in the alt., Mots. to Dismiss, fld. v
3-30	54.	Petition for revival of action and substitution of personal representative as plaintiff, filed. ph
3-30	55.	Pltf's response to deft's amended motion to dismiss or in the alternative motion for S/J, filed. ph
3-21	MO	It is ordered by the Court that Defts' are granted nine (9) days from this date to respond to Pltf's Pet. for revival of action & substitution of personal representative as Pltf.(HDC-J)t
4-7	56.	Defts. Ames, Ballard & Jarvis' response to pltf's petition for revival of action, filed (no objection to substitution of personal representative of Evelyn McCowan).k
4-9	58	Brief of defts. in support of their response to pet. for revival of action & substitution of personal representative as pltf. and mot. to dismiss, filed. g
4-9	57	Response of defts. Schenk, Brennan and AT&SF to pet. for revival of action and substitution of personal representative as pltf. and mot to dismiss, filed. g
4-12	58.	Resp. of Defts. Roger W. Schenk, Joe Brennan and the Atchison, Topeka and Santa Fe Railway Company to Pltfs' Brief in Resp. to Defts'. Mtn. for S/J or, in the alternative, Mtn. to Dismiss, filed.jj
4-12	59.	Mtn. of Defts. Schenk, Brennan and Atchison, Topeka & Santa Fe RR for permission of the Court to File an Amended Mtn. to Dismiss, or in the Alt. for S/J and to File a Responsive Brief to the Pltfs' Brief in Resp. to Defts' Mtn. to Dismiss, or in the Alt. Mtns. for S/J, filed.jj O to J
4-12	60.	Order, filed, granting permission to defts. to file their Amended Mtns. to Dismiss, or, in the alt. Mtns. for S/J and file their Responsive Brief to pltfs. opposing Mtns. to Dismiss, or in the alt. Mtns. for S/J (HDC-J)jj copy mld.jj
4-12	61.	Amended Mtns. to Dismiss, or in the Alt. Mtns. for S/J, filed. ltr. mld.jj
4-14	62.	Supplemental interrogs. directed to pltf., Jewel McCowan, by defts, The Atchison, Topeka & Santa Fe Railway Co, Roger W. Schenk and Joe Brennan, filed. ph
4-19	63.	Pltf's resp. to deft's amended mo/dismiss or in the alternative, mo/ S/J, filed. ph
5-18	--	Deposition of Jewel McCowan, on behalf of defts. taken on 12-29-75 at Tulsa, OK.(K. Noulles-CSR)ph (\$109.50 pd by defts.)
5-18	--	Defts' exhibits from depositions taken on 12-29-75. ph
5-24	64.	Supplemental brief in support of defts', Leonard Ames, Patrick J. Ballard and Willard J. Jarvis, Motion to dismiss and in the alternative, motion for S/J, filed. ph
5-27	65.	Pltfs' ans. to suppl. interrogs. directed to pltf, Jewel McCowan, by defts., The Atchison, Topeka & Santa Fe Railway Co., Roger W. Schenk, and Joe Brennan, filed. ph

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. 75-C-204-C Sheet 3, Page 6 <del>XXXXXX</del>
Jewel McCowan, et al.		The Atchison, Topeka, etc., et al.	
DATE	NR.	PROCEEDINGS	
6-25-76	66.	Order, filed that motion to dismiss or in the alternative mo/SJ by Leonard Ames is overruled; further order, <u>filed and entered</u> that the Motions for SJ filed on behalf of defts. Patrick J. Ballard, Willard J. Jarvis, Joe Brennan, Roger W. Schenk and The Atchison, Topeka and Santa Fe Railway Co. are sustained. (HDC-J)ph cps mld (also, the petition for revival of action is therefore hereby denied)	
7-30	67.	Pre-trial order, filed. (HDC-J)hm (copies mailed)	
7-30	MO:	Case set for jury trial 10-26-76 at 9:30 a.m.; trial briefs, requested voir dire & requested instructions to be filed no later than 10 days prior to trial. (HDC-J)hm (notices mailed)	
10-12	68.	Amendment to Pre-Trial Order, filed. (HDC-J)rm-copies mailed	
10-26	69.	Deft's requested instructions, filed in open court. hm	
10-27	MO:	Jury trial held Oct. 26 & 27. Parties announce ready. Jury empaneled, admonished & sworn. Opening statements made. Pltf. presents case in chief w/test. of witnesses and introduction of exhibits; and rests. Deft's motion for dismissal and directed verdict reserved. Deft. presents case in chief w/test. of witnesses. Out of hearing of jury, further statements made re deft's mo/directed verdict. Court sustains deft's motion. Jury in box. Court announces his ruling on deft's motion and enters a directed verdict for the deft. Jury discharged on 10-27-76. Deft. to prepare final order. Pltf. & deft. allowed to withdraw all exhibits admitted into record. (HDC-J)hm	
11-2	70.	Order, filed & entered, sustaining deft's mot. for directed verdict, and dismissing case as to deft. Leonard Ames. (HDC-J)k cps mld	
11-5	71	Bill of costs of deft., filed. Costs tax hearing set for 11-10-76 at 10:00 a.m.s	
11-10	72	There being no obj. to the amt. of the costs, they are taxed in the amt. of \$148.20, against the pltf. & for the deft. (JCS-Clk)hm	